

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

SCOTTSDALE INSURANCE  
COMPANY,

Plaintiff,

v.

Case No. 6:19-cv-1963-Orl-37DCI

HARVEY GOODS; and ABG13, LLC,

Defendants.

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**ORDER**

Plaintiff sued Defendants in federal court under diversity jurisdiction, seeking a declaration it has no duty to indemnify Defendant ABG13, LLC (“**ABG13**”) in an underlying state action brought by Defendant Harvey Goods against ABG13. (Doc. 7.) After ABG13 failed to respond to the case, Plaintiff moved for summary judgment.<sup>1</sup> The Court then directed Plaintiff to first move for default judgment against ABG13. (Docs. 19, 23.) Plaintiff did so—but U.S. Magistrate Judge Daniel C. Irick denied the motion without prejudice, finding Plaintiff had failed to establish the amount in controversy as required for federal diversity jurisdiction. (*See* Docs. 25–28.) Judge Irick then directed Plaintiff to show cause why this case should not be dismissed for lack of subject matter jurisdiction. (Doc. 28.) Plaintiff responded. (Doc. 29.) On review Judge Irick recommends dismissing

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<sup>1</sup> Defendant Harvey Goods and Plaintiff filed a joint stipulation where Plaintiff agreed not to seek default against Mr. Goods because he “does not oppose the relief sought” in the amended complaint. (Doc. 14.)

the case, finding that Plaintiff failed to show the amount in controversy is greater than \$75,000. (Doc. 31 (“**R&R**”).)

The parties did not object to the R&R, and the time for doing so has now passed. As such, the Court has examined the R&R only for clear error. *See Wiand v. Wells Fargo Bank, N.A.*, No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at \*1 (M.D. Fla. Jan 28, 2016); *see also Macort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006). Finding none, the R&R is adopted in its entirety.

Accordingly, it is **ORDERED AND ADJUDGED**:

1. U.S. Magistrate Judge Daniel C. Irick’s Report and Recommendation (Doc. 31) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. Plaintiff’s Amended Complaint for Declaratory Judgment (Doc. 7) is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction.
3. The Clerk is **DIRECTED** to terminate all pending motions and close the file.

**DONE AND ORDERED** in Chambers in Orlando, Florida, on August 13, 2020.



  
ROY B. DALTON JR.  
United States District Judge

Copies to:  
Counsel of Record